S. HRG. 98-245

AVIATION DRUG-TRAFFICKING CONTROL ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 1146

TO AMEND THE FEDERAL AVIATION ACT OF 1958 TO PROVIDE FOR THE REVOCATION OF THE AIRMAN CERTIFICATES AND FOR ADDITIONAL PENALTIES FOR THE TRANSPORTATION BY AIRCRAFT OF CONTROLLED SUBSTANCES, AND FOR OTHER PURPOSES

JULY 21, 1983

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CONTENTS

	Page
Opening statement by Senator Kassebaum	1
Text of S. 1146	3

LIST OF WITNESSES

Asack, Robert L., Chief, Miami Air Support Branch, U.S. Customs Service; and James I. Knapp, Deputy Assistant Attorney General, Criminal Division, Department of Justice	22
Bentsen, Hon. Lloyd, U.S. Senator from Texas	11
Letter of July 18, 1983	13
Broderick, Anthony J., Deputy Associate Administrator, Aviation Standards, Federal Aviation Administration, accompanied by John H. Cassady, Assistant Chief Counsel, Regulations and Enforcement Division; and Richard A. Noble, Manager of Ground Operation Security Division, Office of Civil Aviation Security	14
Mendelsohn, Allan W., attorney, accompanied by Anthony Cassese, United States Aircraft Insurance Group; and Leo Howe, vice president, National Aviation Underwriters	31
Prepared statement	38

THE AVIATION DRUG TRAFFICKING CONTROL ACT

THURSDAY, JULY 21, 1983

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON AVIATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:32 a.m. in room SR-232A, Russell Senate Office Building, Hon. Nancy Kassebaum (chair of the subcommittee) presiding.

Staff members assigned to this hearing: Chuck Doyle, staff counsel, and Steve Palmer, minority professional staff counsel.

OPENING STATEMENT BY SENATOR KASSEBAUM

Senator KASSEBAUM. The hearing will come to order.

We are here today to examine S. 1146, the Aviation Drug-Trafficking Control Act. I would like to open by thanking Senator Bentsen, Senator Domenici, and Senator DeConcini for the work that they have done in bringing this bill forward.

Everyone is familiar with the horrible effects that illegal drugs have on the fabric of our society. What many may not know is the large role that light aircraft and old military transports play in bringing these drugs into the country. One of the things that I have found very frustrating about this aerial drug trade is the fact that it seems to be the same pilots, and in many cases the same airplanes, that participate over and over again in drug runs.

This aerial drug trade is even reaching my State of Kansas in increasing amounts. The sparsely populated, very flat western portion of the State, with its ex-military runways, makes an ideal place for these planes to land.

I will be most interested to hear from the witnesses this morning as to how S. 1146 can help to stem the tide of these illegal drugs. I believe we must give the Government every legitimate tool we can to attack this activity which spreads so much misery among those it touches.

It is a pleasure to welcome you, Senator Bentsen, as the author of this piece of legislation, which I happen to believe is a very important step in an effort to address the control of illegal drugs coming into this country and the transportation of those drugs.

We have come to realize this is even a problem in Kansas, because in western Kansas, which is very flat, as is Texas, there are many of the light planes that can land in the fields or on the old military runways there. And so I commend you, Senator Domenici

and Senator DeConcini, for bringing this legislation to the Senate's attention, and promise to expedite it, certainly, from the Commerce Committee.

[The bill follows:]

II

98TH CONGRESS
1ST SESSION

S. 1146

To amend the Federal Aviation Act of 1958 to provide for the revocation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 26, 1983

Mr. BENTSEN (for himself, Mr. DECONCINI, and Mr. DOMENICI) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend the Federal Aviation Act of 1958 to provide for the revocation of the airman certificates and for additional penalties for the transportation by aircraft of controlled substances, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aviation Drug-Trafficking Control Act".

SEC. 2. (a) Section 609 of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new subsection:

"TRANSPORTATION OF CONTROLLED SUBSTANCES

"(c)(1) The Administrator shall issue an order revoking the airman certificate of any person upon conviction of such person in any court, and exhaustion of all direct judicial review of such conviction, for violation of any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance) where the Administrator determines that such person has knowingly served in any capacity as an airman in connection with such violation. Prior to revoking an airman certificate under this subsection, the Administrator shall notify the holder of the certificate of the proposed revocation and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. The person whose certificate is revoked by the Administrator's order may obtain judicial review of such order under the provisions of section 1006.

"(2) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator determines that such person has knowingly served in any capacity as an airman in connection with the transportation by aircraft of any controlled substance, where such transportation is prohibited by any State or Federal law or is provided in connection with any act prohibited by any State or Federal law relating to controlled substances (other than any law relating

to simple possession of a controlled substance). Before revoking any such certificate the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for his proposed action and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. The person whose certificate is revoked by the Administrator's order may obtain judicial review of such order under the provisions of section 1006.

"(3) For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act.".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 609. Amendment, suspension, and revocation of certificates."

is amended by adding at the end thereof

"(c) Transportation of controlled substances.".

SEC. 3. Section 602(b) of the Federal Aviation Act of 1958 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked pursuant to subsection (c) of section 609 of this title during the five-year period beginning on the date of such revocation.

24-109 O - 83 - 2

"(B) The Administrator may issue an airman certificate to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if, in addition to the findings required by paragraph (1), the Administrator determines (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.".

SEC. 4. Section 501(e) of the Federal Aviation Act of 1958 is amended by inserting "(1)" after "(e)" and by adding at the end thereof the following new paragraph:

"(2)(A) The Administrator shall issue an order revoking the certificate of registration issued to an owner under this section for an aircraft and each other certificate of registration held by such owner under this section, if the Administrator determines that—

"(i) such aircraft has been used to transport a controlled substance, where such transportation is pro-

hibited by any State or Federal law or is provided in connection with any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance); and

"(ii) the use of the aircraft was permitted by such owner with the knowledge that the aircraft was intended to be used for transportation described in clause (i) of this subparagraph.

For purposes of this paragraph, an owner of an aircraft who is not an individual shall be considered to have knowledge of an intended use of an aircraft only if a majority of the individuals who control such owner or who are involved in forming the major policy of such owner have knowledge of such intended use. Prior to revoking any certificate under this paragraph, the Administrator shall advise the holder thereof as to any charges or other reasons relied upon by the Administrator for the proposed revocation and shall provide the holder of such certificate an opportunity to answer any charges and be heard as to why such certificate should not be revoked. Any person whose certificate is revoked under this paragraph may obtain judicial review of such order under the provisions of section 1006. For purposes of this paragraph the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act.

"(B) Except as provided in subparagraph (C), the Administrator shall not issue a certificate of registration to any person who has had a certificate revoked pursuant to subparagraph (A) of this paragraph during the five-year period beginning on the date of such revocation.

"(C) The Administrator may issue a certificate of registration for an aircraft to any such person before the end of such five-year period (but not before the end of the one-year period beginning on the date of such revocation) if the Administrator determines that such aircraft is otherwise eligible for registration under this section and (i) that revocation of the certificate for such five-year period would be excessive considering the nature of the offense or the act committed and the burden which revocation places on such person, or (ii) that revocation of the certificate for such five-year period would not be in the public interest. The determinations under clauses (i) and (ii) of the preceding sentence shall be within the discretion of the Administrator and any such determination or failure to make such a determination shall not be subject to administrative or judicial review.".

SEC. 5. (a) Section 902 of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new subsection:

"TRANSPORTING CONTROLLED SUBSTANCES WITHOUT AIRMAN CERTIFICATE

"(q) Any person who knowingly and willfully violates section 610(a)(2) in connection with the transportation by aircraft of any controlled substance, where (1) such transportation is prohibited by any State or Federal law or is provided in connection with any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance), and (2) such person has knowledge of such transportation, shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or to both such fine and imprisonment. For purposes of this subsection, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act.".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 902. Criminal penalties."

is amended by adding at the end thereof

"(q) Transporting controlled substances without airman certificate.".

SEC. 6. Section 902(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(b)) is amended—

(1) by striking out "(b) Any person who" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), any person who";

(2) by striking out "uses or attempts to use" and inserting in lieu thereof "sells, uses, attempts to use, or possesses with the intent to use"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) Any person who violates paragraph (1) of this subsection (other than by selling a fraudulent certificate) with the intent to commit any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance) shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.

"(B) Any person who violates paragraph (1) of this subsection by selling a fraudulent certificate with the knowledge that the purchaser intends to use such certificate in connection with any act prohibited by any State or Federal law relating to controlled substances (other than any law relating to simple possession of a controlled substance) shall be subject to a fine not exceeding $25,000 or to imprisonment not exceeding five years, or both.

"(C) For purposes of this paragraph, the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Substances Act.".

SEC. 7. This Act and the amendments made by this Act shall apply with respect to acts and violations occuring after the date of enactment of this Act.

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Senator KASSEBAUM. We welcome your comments.

STATEMENT OF HON. LLOYD BENTSEN, U.S. SENATOR FROM TEXAS

Senator BENTSEN. Thank you very much, Madam Chairman. I appreciate your holding early hearings on the Aviation Drug-Trafficking Act. I know you are most concerned about the drug trafficking in the country, and the damage it causes to the lives of our people.

It is interesting to note how drugs are transported into the country. The statistics are really very alarming. According to the Drug Enforcement Agency, in 1981 50 percent of the cocaine, 35 percent of the marihuana, 75 percent of Southwest Asian heroin, 55 percent of Southeast Asian heroin, 80 percent of the dangerous drugs entered the United States by air.

According to the Customs Service, 1.3 million pounds of drugs—cocaine, marihuana, heroin, methaqualon, and others—will enter this country by private aircraft this year. And 90 percent of that will come across our southern border.

It is not surprising, given the conditions under which small private planes operate, that many crash because they are overloaded or their pilots take off from or land on unmarked airstrips. Between 1980 and 1982, the FAA has advised me that there were 491 aircraft crashes in which drugs were aboard.

I have had something of a personal experience in this matter. My brother and I owned a single-engine Cessna aircraft that was hangared on the Mexican border, where I was born and reared. One night thieves pushed a couple of planes aside, wired the ignition, and flew the plane off. That is the last we have seen of it. I would like to add that if that aircraft is found carrying drugs, we would like very much to have it back. That is the sort of thing that is taking place.

My interest in this was really raised when I read of an exchange the late Congressman Adam Benjamin had with the Administrator of the Federal Aviation Administration. I would like to quote briefly from that exchange, so the committee might understand the gap in our laws, which Aviation Drug-Trafficking Control Act seeks to fill.

Congressman Benjamin asked Mr. Helms what would the FAA do if it learned that an owner-pilot had used his aircraft for a drug run? The Administrator replied:

> "Even if there were proof that the owner-pilot was to use the aircraft on a drug run, the FAA would have no authority under existing statutes to prevent the owner from being able to continue to enjoy U.S. registry for that aircraft."

That is just not right. We ought to try to correct that, and that is what we are trying to do.

In addition, Madam Chairman, the FAA has no authority to revoke or suspend a pilot's license unless that pilot is first convicted of violating a Federal or State antinarcotics statute, and then for only 1 year. Consequently, although between 1980 and 1982 there were 491 drug-related crashes, the FAA only revoked or suspended 64 pilot's licenses.

Given the scope and significance of this problem, I think that is an inadequate response and one the Congress ought to try to correct. I therefore introduced this bill, while Congressman Mineta, chairman of the Public Works and Transportation Subcommittee on Aviation in the House, introduced a comparable bill. Incidentally, that bill marked up and reported out by the subcommittee last week.

Let me state from the outset that I do not consider the FAA a drug enforcement agency. But we have given it the responsibility to license and certify airmen and aircraft. So the FAA can and should, I believe, use that authority to make certain that these aircraft are not used to smuggle drugs.

If enacted, this bill would do two things: It would give the FAA the authority it says it needs to revoke airman certificates and aircraft registrations of pilots and owners who, it finds, have engaged in drug trafficking. And obviously, a very high number have.

In addition, the bill prescribes penalties which would better fit the crime than those we have in the law today. The Aviation Drug-Trafficking Control Act would require revocation of an airman's certificate if the holder violates any law that relates to controlled substances, other than a law prohibiting simple possession, and the FAA Administrator determines that the certificateholder knowingly served as an airman in connection with the violation.

The bill would also empower the Administrator to revoke an airman's certificate for up to 5 years, but not less than 1 year, if he determines that that holder knowingly served as an airman in connection with the transportation of a controlled substance, even if the holder was not previously convicted for a drug-related offense.

Before an airman's certificate could be revoked, however, the holder must be given notice and an opportunity to answer the charges and explain why the certificate should not be revoked. The right of appeal to the U.S. Court of Appeals would be guaranteed.

This provision is fully in keeping with the due-process requirement and is consistent with numerous judicial decisions which have held that a license is a privilege, not a right, and may therefore be revoked when it has been abused and when it is in the public interest to do so.

I would remind the committee that the Administrator already has authority under law to suspend or revoke a license for safety violations and, as demonstrated by the large number of drug-related crashes, smuggling drugs by air is clearly unsafe.

The bill also empowers the Administrator to revoke a certificate of registration for up to 5 years, but not less than 1, if he determines that the owner has knowingly permitted the aircraft to be used to transport a controlled substance. The same procedural due process safeguards—notice, a hearing, and the right to appeal—that apply to revocation of an airman's certificate will also apply before a registration certificate may be revoked.

If an airman's certificate is revoked for drug trafficking, it is important, in addition, to deter the airman from continuing to fly without a license, which some do. Under current law, the sanctions are just not sufficient. An airman who flies without a certificate is subject only to a $1,000 civil penalty. With the kind of payoff in drugs involving bundles of money which are exchanged, that is

really no risk at all. They would consider that just part of the cost of business.

My bill would create penalties of a fine of up to $25,000 and imprisonment of up to 5 years for persons who knowingly fly without a certificate in order to transport these drugs.

Finally, this bill would increase the penalties for using or attempting to use a false certificate in connection with the transport of illegal drugs. Under current law, the use of fraudulent certificates and fraudulent registration numbers is punishable by a fine of up to $1,000 and imprisonment of up to 3 years.

We have also seen that some of these aircraft are stolen, flown across a border, and their certificate numbers are changed on the tail of the aircraft. The bill provides that when a fraudulent certificate or registration violation is used in transporting illegal drugs, the penalty shall be a fine of up to $25,000 and imprisonment of up to 5 years.

In conclusion, I want to point out that the authority the bill gives the FAA to combat drug smuggling is an authority already enjoyed by the Coast Guard. It is not something unique. It simply gives better tools to cut back on drug smuggling in this country.

When the Coast Guard suspects a member of the merchant marine has been involved in illicit drug activity, it conducts an investigation. If it finds that the seaman has in fact engaged in drug smuggling, the Coast Guard may revoke his license under procedural guidelines for conducting due process hearings that are outlined in the Federal regulations.

In a letter of July 18, 1983, the Coast Guard has informed me that it possesses all the statutory authority it requires to take effective action in this area. It is an authority which I think the FAA ought to have too.

This bill is not going to solve the drug problem by itself. But it is going to put pilot and aircraft owners on notice that the stakes have been substantially raised if they violate the law and continue to bring drugs into this country. It is going to put them on notice that their means of livelihood will be cut off and that they will be subject to imprisonment if they continue to violate these laws.

I think it will be a major step forward, particularly when you remember that most of the drugs today coming into this country come in by air.

I am most appreciative that you have held these hearings today and would appreciate such action you may take on the bill.

[The letter referred to follows:]

U.S. DEPARTMENT OF TRANSPORTATION,
U.S. COAST GUARD,
Washington, D.C., July 18, 1983.

Hon. LLOYD BENTSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENTSEN: This is in response to your recent inquiry concerning the Coast Guard's ability to take action against members of merchant marine who are involved in the commission of a violation of any of the various drug laws.

Section 4450 of the Revised Statutes, 46 U.S.C. 239, gives the Coast Guard the authority to suspend or revoke the license of an officer or the document of a seaman who is guilty of misconduct while serving under the authority of that license or document. The Act of July 15, 1954, 46 U.S.C 239b, provides us with additional authority to take action against seafarers who have used narcotics or who have been con-

victed of narcotics violations when they were not employed under the authority of a Coast Guard license or document. Thus, to the extent that smuggling of drugs by crews of U.S. flag merchant vessels is a part of the national drug problem, we believe that our existing statutory authority allows us to take effective action.

When we have reason to suspect that a member of the merchant marine has been involved in illicit drug activity, it is our practice to conduct an investigation and to apply the above mentioned laws. Our policies for doing this, as well as our procedural guidelines for conducting due process hearings, are set forth in Title 46 of the Code of Federal Regulations, Part 5. We have provided statistics to your staff about our activities in this area.

Let me assure you of the Coast Guard's dedication to the reduction of illicit drug trafficking. As you know, we have devoted a major portion of our personnel, equipment, and funding to this effort. We intend to continue.

Sincerely,

THOMAS NUNES,
Commander.

Senator KASSEBAUM. Thank you very much, Senator Bentsen, for your very fine opening statement and for your thoughtfulness in addressing this issue. As you say, it is a first step. It will not solve the problem, but it is another tool, a tool that we can use, and I think as such it serves an immensely important function.

The importance of this hearing will be to ask those who will be testifying if indeed they think it is going to serve adequately as a tool and if there are any ways it can be improved upon or even strengthened.

I would be happy to welcome you up here as a questioner if you have time to stay.

Senator BENTSEN. My problem is, I do not have a better offer; I have an earlier offer, though, and I have to attend another committee.

Senator KASSEBAUM. Thank you very much.

Senator BENTSEN. Thank you very much.

Senator KASSEBAUM. Mr. Broderick, Deputy Administrator, Aviation Standards, and those who would be assisting you.

Welcome, and if you would introduce, Mr. Broderick, those who are accompanying you, I would appreciate it.

STATEMENT OF ANTHONY J. BRODERICK, DEPUTY ASSOCIATE ADMINISTRATOR, AVIATION STANDARDS, FEDERAL AVIATION ADMINISTRATION, ACCOMPANIED BY JOHN H. CASSADY, ASSISTANT CHIEF COUNSEL, REGULATIONS AND ENFORCEMENT DIVISION; AND RICHARD A. NOBLE, MANAGER OF GROUND OPERATION SECURITY DIVISION, OFFICE OF CIVIL AVIATION SECURITY

Mr. BRODERICK. Thank you very much.

Good morning, Madame Chairman, members of the committee.

I am Anthony Broderick, Deputy Associate Administrator for Aviation Standards. Accompanying me are Mr. Richard Noble, Manager of our Ground Operation Security Division, and John Cassady, Assistant Chief Counsel for the Regulations and Enforcement who is on my right.

We appreciate the opportunity to be heard, and we welcome the opportunity to appear before the subcommittee today to present the views of the Federal Aviation Administration concerning S. 1146.

I know the subcommittee is aware of the administration's efforts to stem the flow of illegal drugs into this country, and that the overall effort to combat illegal drugs is a high priority one within the administration. We in the FAA have actively participated in these efforts, and have worked closely with other Federal agencies, such as the Customs Service and the Drug Enforcement Administration, providing them technical assistance and support.

We also have an individual assigned full time to the El Paso Intelligence Center, known as EPIC, and are a participating member in the newly created National Narcotics Board Interdiction System, which consists of several Federal agencies involved in three basic functions. One is operations information. The second is intelligence and intelligence gathering. And the third is air operations and radar surveillance.

FAA's primary function within the NNBIS is in the area of air operations and radar.

A major concern of the FAA about the illegal carriage of drugs is that safety considerations are given limited priority by many who haul drugs. Illustrative of this are the 155 aircraft accidents from 1980 through 1982 occurring in the United States where some definite evidence of the carriage of drugs was found. Those FAA statistics are probably not as representative of the overall problem as data maintained by the El Paso Intelligence Center, which shows 491 accidents during that same time in which an aircraft suspected of carrying drugs crashed either in the United States or out of the country.

During that same period, the FAA revoked or suspended the airman's certificates of 65 individuals convicted of drug offenses and 574 general aviation aircraft were stolen—49 percent of these thefts were estimated to be drug related. This information is merely suggestive of a broader problem which can probably best be described by the law enforcement oriented agencies that as a major mission have a continuous day-to-day involvement in this area.

The FAA stands ready to continue providing assistance to these law enforcement agencies as they work to combat drug smuggling. We would like to emphasize, however, that we do not see ourselves as a law enforcement agency, nor do we seek to take on such authority. We are and should remain a safety agency. In that regard, we believe the bill before the subcommittee properly recognizes the FAA role in this area, and we support its enactment.

I would like to turn now to a statement of FAA's views on S. 1146. Section 2 of the bill amends section 609 of the Federal Aviation Act of 1958 in two significant respects. First, the FAA Administrator would be required to revoke the airman's certificate of any person who has been convicted in any court for violation of any State or Federal law relating to controlled substances if the Administrator determines that such person has knowingly served in any capacity as an airman in connection with such violation.

Second, the Administrator would be required to revoke the airman's certificate of any person determined by the Administrator to have knowingly served in any capacity as an airman in connection with the transportation by air of any controlled substance where such transportation is either prohibited by law or provided in connection with any act prohibited by State or Federal law.

We agree with the general thrust of these provisions contained in new subsection 609(c), which recognizes that airmen engaged in illegally transporting drugs typically care little about complying with the Federal Aviation regulations or the underlying safety rationale of those regulations. Clearly it is in the public interest to keep these people from using the Nation's airways, and S. 1146 makes it clear that the Federal Government will not tolerate their continuing to do so once they have been caught engaging in the kinds of illegal drug activity specified in the proposed legislation.

We welcome that kind of reinforcement of our existing legislative and regulatory authority and the deterrence effect it may have for people who value their airmen's certificates for personal or legitimate business reasons.

We do have some specific concerns or recommendations to offer regarding these provisions, however. Both provisions require the Administrator to determine that the individual has knowingly served in any capacity as an airman in connection with the underlying illegal activity. We believe that the knowingly standard should not be applicable to the individual serving as an airman. There are cases in which it may be virtually impossible to prove that an individual was in fact even serving as an airman.

Given this potential, we believe that the subcommittee might wish to consider the loss of an airman's certificate when it can be shown that controlled substances were transported with the knowledge of the airman, and that that activity involved an aircraft, rather than requiring that it be proven that the individual actually served in some capacity as an airman.

This approach would seem to better effectuate the purposes of these proposed provisions, and would not place an undue burden on FAA's resources in seeking to develop adequate proof. Further, we are concerned that the bill seems to call for the FAA to prove as one element of the offense that the carriage of controlled substances is illegal under Federal or State law. Conceivably, this could require the FAA to prove the whole criminal case against the individual.

We recommend that the sanction of revocation be triggered by the carriage of a controlled substance, with the proviso that the section does not apply if that activity is authorized under State or Federal law. This would permit an individual to raise as an affirmative defense the legality of the drug transaction in which he was involved.

We believe the bill should be clarified preferably in its statutory provisions, but at least through very clear legislative history to indicate that the FAA Administrator need not await the final appeal of an individual before taking action to revoke that individual's certificate on drug-related grounds.

We believe that the statute is intended to provide the Administrator with flexibility, and that it should be made clear that regardless of the stage of a criminal proceeding against an individual or even in the absence of a criminal proceeding, the Administrator has full authority to revoke an airman's certificate for the kinds of activities specified in this section.

Also, we believe that it is desirable to indicate expressly that these new provisions do not supplant the Administrator's broad au-

thority to prescribe and undertake additional regulatory actions in this or related areas.

The proposal is silent with respect to any statutory requirement to provide a hearing to an individual whose certificate may be revoked by the FAA. Notwithstanding the lack of such an express requirement, FAA attorneys believe that due process considerations would require that a hearing be provided.

In the interest of governmental efficiency, we believe that the proposed legislation should provide for a process whereby the alleged violator could repeal a revocation decision of the FAA to the National Transportation Safety Board where the airman would be afforded an opportunity for a hearing, the same process used today for drug-related certification actions, and which will continue to remain available to airmen whose certificates are revoked or suspended on other grounds.

The NTSB could make findings of fact, but would be bound by the statutory sanction calling for certification revocation upon concluding that the Administrator's original determination was correct. Relying on the existing process would avoid having the FAA establish an internal hearing mechanism to deal with drug-related offenses, would permit the more efficient use of existing administrative law judge resources at the NTSB, and would not require dual hearings—one before the FAA and one before the NTSB—when an individual during the course of a drug activity has committed safety violations also warranting certificate action and also giving rise to a revocation proceeding.

We believe this approach makes sense both on the grounds of efficiency and governmental resource management, and strongly urge its adoption by the subcommittee.

Section 3 of the bill prohibits the issuance for a 5-year period of an airman's certificate to any person whose airman's certificate has been revoked pursuant to proposed subsection 609(c). The FAA Administrator would be granted authority to issue a new airman's certificate to such an individual who applies in less than the 5-year period following revocation if the Administrator determines that a 5-year period is excessive, or that revocation for 5 years is not in the public interest.

The exercise of this authority would be committed solely to the Administrator's discretion, and not subject to administrative or judicial review.

We agree with the provisions of this section. Five years seems to be a reasonable period of time for the revocation of an airman's certificate for the types of offenses contemplated by this section. We assume, however, that the bill's intent is not to preclude the Administrator from denying an individual a certificate after completion of the 5-year period in a particularly aggravated case.

If that is the subcommittee's intent, it would be helpful to have the legislative history address that issue.

The bill also provides flexibility to the Administrator to take into account unusual cases where a 5-year period for revocation may be unduly burdensome. Significantly, the Administrator would be given latitude in reaching such decisions and could make these extraordinary determinations solely upon their merits, eliminating

concerns about needless litigation which would further put a strain on agency resources.

Section 4 of the bill amends the aircraft registration provisions of the Federal Aviation Act of 1958 to provide that the Administrator shall revoke the certificate of registration of an aircraft along with other certificates of registration held by that owner if the Administrator determines that the aircraft has been used to illegally transport drugs and that the use of the aircraft for such purposes was with the permission of the owner.

For a corporate type structure, the owner would be considered to have knowledge of the intended use of the aircraft only if a majority of the individuals who control such owner or who are involved in forming the major policy of the owner have knowledge of the intended use.

As in the case of airmen's certificates revoked for drug-related offenses, the Administrator could not issue a certificate of registration to a person whose certificate was revoked for a 5-year period. The Administrator is given discretion to permit an individual to receive a new registration certificate in less than 5 years on the same bases for which he can issue a new airman's certificate under section 3.

We agree with the provisions of this section. Revoking an individual's certificate of registration for an aircraft and denying that individual any new registration certificates for a 5-year period represents an added deterrent to individuals considering using their aircraft or permitting others to use their aircraft for illegal drug activities.

Through calling for the revocation of all certificates of registration possessed by a given individual who is determined to have committed the proscribed kinds of drug activities, the bill will preclude an individual from continuing in the drug trade by substituting new aircraft for ones that otherwise might be deregistered under the proposed bill.

Section 5 of the bill calls for a stiff criminal sanction for individuals who serve as airmen aboard aircraft, for which they do not hold the appropriate airman's certificate, if they know the aircraft is illegally transporting drugs. A person convicted of violating this amendment to section 902 of the Federal Aviation Act of 1958 would be subject to a fine of up to $25,000 or to imprisonment not exceeding 5 years or both.

From an FAA safety perspective, this provision does two important things. First, it recognizes the added potential for safety violations created by a noncertificated or inappropriately certificated individual who is illegally transporting drugs. Second, it puts teeth into the provisions calling for revocation of an airman's certificate by telling individuals whose certificates have been revoked that, in addition to existing penalties for drug offenses themselves, they are also subject to additional serious criminal penalties for continuing to transport drugs by air.

The last section of the bill, section 6, amends section 902(b) of the Federal Aviation Act of 1958. Present section 902(b) makes it a criminal offense to forge, counterfeit, alter, or falsely make an FAA certificate, or to use or attempt to use such a fraudulent FAA certificate.

The present section also makes criminal the act of displaying or causing to be displayed false or misleading marks on an aircraft. The proposal would also make it a criminal offense to possess with intent to use or to sell a fraudulent certificate. Further, the proposal would add stiffer criminal penalties for performing any of these previously indicated acts other than selling a certificate with the intent to commit an illegal drug offense.

Senator KASSEBAUM. That is an unusually long warning bell.

Mr. BRODERICK. It is telling me something.

Selling such a fraudulent certificate to a person knowing that the purchaser intends to use such a certificate in connection with an illegal drug act would also be subjected to higher criminal penalties than the merit of selling the certificate.

We support these provisions, and believe the substantial penalties they provide are fully warranted in the interest of deterring such illegal activities.

In closing, Madame Chairman, I want to reiterate our support of the proposed legislation and offer our assistance to the subcommittee in working with you and your staff on this important issue.

That completes my prepared statement. We would be pleased to answer any questions you may have.

Senator KASSEBAUM. Thank you, Mr. Broderick.

I would like to start, just for my own information, with a little bit about what you do today. If the FAA knows that a pilot has been involved in transportation of drugs, what do you do today?

Mr. BRODERICK. We work very closely with the law enforcement agencies in the government to keep abreast of the activity of their drug interdiction programs. What specifically happens is that when a person is convicted of a crime, we learn of that through this relationship, and will take the appropriate revocation action on the certificate.

Senator KASSEBAUM. After that conviction?

Mr. BRODERICK. Yes, ma'am.

Senator KASSEBAUM. Many times, do these pilots not violate air safety standards? I mean, there have been many crashes and many instances where supposedly they just do not care. Does this not bring you in, then, because of air safety violations, at an earlier point?

Mr. BRODERICK. Yes, it certainly would, and we would actually be in many cases, I think, considering safety violations separate from a drug offense. We are certainly concerned about safety violations, and pursue those if we know of their occurrence, as I indicated in my testimony, along with any of the drug-related offenses.

Senator KASSEBAUM. What particular type of air safety standards are violated most often?

Mr. BRODERICK. Well, people who are involved in illegal drug activities frequently, for example, will, as we indicated earlier, steal an airplane. They may then not have the appropriate licenses or ratings to fly that airplane; for example, they may not be licensed by the agency to fly a twin engine airplane. That is one common offense.

Another common offense is flying at night without lights, or flying too low to the ground in order to swoop in under radar coverage. Not filing a flight plan when you come in through the air

defense identification zone from the South or Southeast of the country into the United States is another offense.

Senator KASSEBAUM. How often have you, in fact, filed against them or made any arrests, so to speak, because of those violations?

Mr. BRODERICK. Well, as indicated in my testimony, we are running about, in 1980 through 1982, 25 revocations or suspensions a year in cases where pilots have been known to be involved in drug smuggling, and those drug revocations and suspensions also include the associated safety violations.

I don't know specifically. I do not have the data with me. But we can certainly check on how many people suspected of being involved in drug offenses have been prosecuted for violations of the Federal Aviation Administration regulations. Clearly our suspicion would be one that is not associated with knowledge of the fact that the person was a criminal.

Senator KASSEBAUM. Do you believe that this legislation would be a step forward in enabling you—as you say, you do not view, you, the Administrator, or the FAA Admininstrator certainly as an enforcer, certainly, of drug trafficking, but do you view this as a step which could be useful? There are many who say it will not make the least bit of difference that those who are piloting those planes really would not care.

I would like your thoughts on if you believe this is indeed a tool that can be of use.

Mr. BRODERICK. Madam Chairwoman, you are certainly right. We do not consider ourselves a law enforcement agency, but we are a sister agency with the other law enforcement agencies in the Government, and we share a single purpose in trying to combat the use and smuggling of illegal drugs.

I would strongly disagree with people who say that this would not add anything to our arsenal of weapons against these people. Simply stated, I look at it as being helpful in two areas. First of all, it is an added deterrent for people who are multiple offenders. People who have been convicted right now face a revocation for up to 1 year. This bill provides for significantly increasing the severity of the penalties associated with that.

Perhaps more important, it serves as a real deterrent to that person who has not been involved in drugs but who has heard about the lucrative business that it is, and is tempted to use his airman's certificates and ratings to make just one drug run. This puts severe penalities associated with taking that risk, and I think people who have worked with us think that it would significantly deter people from entering into this particularly ugly business.

Senator KASSEBAUM. And the leasing of those planes?

Mr. BRODERICK. I would think that, too, the leasing and the registration of the planes.

Senator KASSEBAUM. What do you say—maybe, Mr. Cassady, you could answer this—if the Justice Department would say to you that any action on your part would jeopardize an ongoing case? I assume at that point that you would work with Justice to see what accommodations could be made without prejudicing the case?

Mr. CASSADY. Madam Chairman, we have that situation existing now in the enforcement of our existing regulation, that is, the regulation that itself prohibits the carriage of prohibited substances in

an aircraft and which provides for suspension and revocation of the pilot certificates of persons who are convicted of drug-related offenses.

It is not unusual to find ourselves investigating violations of those regulations at the same time that the Department of Justice is investigating criminal violations growing out of the same incident. Based on my own experience, we have had an excellent working relationship in which the FAA readily stands aside for the completion of criminal enforcement investigations.

I do not know of any case in which we have ever done anything which has impeded or interfered with the Department's law enforcement efforts, and I think it has worked well so far and I assume it would under this legislation as well.

Senator KASSEBAUM. One last question. As Senator Bentsen mentioned, the House subcommittee marked up this legislation last week. They adopted the hearing requirement that you mentioned, but not through NTSB. How would you evaluate their decision on that?

Mr. CASSADY. Under the act as it now stands, for certificate actions the statute provides a right of appeal, any time the Administrator suspends or revokes an airman's certificate, to the National Transportation Safety Board, with subsequent review in the U.S. Court of Appeals. We do not see any particular reason to disturb that system for these kinds of violations.

So that, based upon our conclusion that some due process is required and that there already exists a mechanism for hearings, for administrative hearings which guarantee all due process requirements are met, that there is really no reason to disturb that and add a different kind, or substitute a different kind, of hearing mechanism for these kinds of cases, particularly considering the narrow issues in these kinds of cases.

Mr. BRODERICK. Madam Chairman, let me add something to that, too. I think we would be—we can certainly work within that framework, but it does provide an awkward situation, especially in the kind of cases you were referring to earlier, where you have safety violations and revocation action associated with those actions being prosecuted under one set of ground rules and one appeal route, and on the other hand you would have, for the same trip, as it were, other offenses being prosecuted under a different set of appeals.

It could get us quite tied up in knots in a bureaucratic procedural sense. That is why we favor the use of the existing system, which actually is working quite well now, as Mr. Cassady said, albeit with much smaller teeth than this bill would allow.

Senator KASSEBAUM. Thank you very much. We appreciate your testimony.

Is there anything else you wish to add?

Mr. BRODERICK. No, ma'am.

Senator KASSEBAUM. Thank you.

I wonder if Mr. Asack, who is the Chief of the U.S. Customs Service, and Mr. Knapp, Deputy Assistant Attorney General with the Justice Department, would want to testify at the same time.

It is a pleasure to welcome you both: Mr. Robert Asack, Chief, Miami Air Support Branch, U.S. Customs Service; and Mr. James

Knapp, Deputy Assistant Attorney General, Criminal Division, Department of Justice.

Thank you both, and shall we start with Mr. Asack.

STATEMENTS OF ROBERT L. ASACK, CHIEF, MIAMI AIR SUPPORT BRANCH, U.S. CUSTOMS SERVICE; AND JAMES I. KNAPP, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE

Mr. ASACK. It sounds like a great idea, Madam Chairman. Good morning.

I appreciate the opportunity to appear before the subcommittee to express the views of the Customs Service on S. 1146, and to recognize the efforts of this subcommittee in significantly enhancing the Federal interdiction efforts in combating drug trafficking by general aviation aircraft.

The smuggling of narcotics and dangerous drugs by private aircraft has dramatically increased over the past several years. In fiscal year 1982, the Customs air program seized 117 aircraft, 120 vehicles, 51 vessels, over $404,144 in cash, 2,205 pounds of cocaine, over 558,094 pounds of marihuana and hashish—an increase of 60 percent over 1981.

There is little doubt that air smuggling will continue since there is such a large and profitable market for the contraband in the United States. As long as the demand continues, the drug smuggler will continue to find innovative ways to attempt to bring narcotics into the U.S. commerce. From an operational standpoint, current intelligence indicates certain key changes have been occurring in air smuggler tactics.

The 1982 implementation of the improved Customs air strategy in the Southeast produced many of these significant narcotics-related arrests and seizures. These have had an impact on the smuggler, causing changes in his mode of operation, tactics, and routes. Current intelligence indicates key changes have been occurring in air smuggler tactics:

One, a significant increase in airdrops to vessels offshore of Florida and the Bahamas;

Two, offloading in the Bahamas from private aircraft for transport further by vessel and/or smaller aircraft;

Three, an obvious increase in suspect aircraft lookouts originating from areas north of Florida and from the gulf coast areas;

And four, some increases in narcotics-related aircraft seizures and specifically cocaine seizures made in areas north and west of Florida.

However, there is little doubt that air smuggling will continue, since there is a large, profitable market for contraband in the United States. As long as the demand continues, the drug smuggler will continue to find innovative ways to smuggle.

Customs enforcement elements, from Florida to California, face a wave of narcotics flowing from major source and transshipment countries throughout the Caribbean, Central and South America.

The Customs National Air Threat for 1983, which was prepared for the Senate Appropriations and House Government Operations Committees in the fall of 1982, used all available intelligence from

the El Paso Intelligence Center, the Drug Enforcement Administration, and other domestic and foreign agencies. That report estimates that between 149 and 299 separate aircraft flights will transport 40,000 pounds of cocaine, while between 600 and 1,200 flights are projected to carry over 1 million pounds of marihuana.

Also during 1979, the Customs-DEA joint intensified operation known as Boomer/Falcon achieved importance through the apprehension of two smuggler aircraft, only 2 days apart, with major cocaine loads of 329 pounds and 384 pounds. These significant events reinforced the belief that hard narcotics were being transported by private aircraft.

The Customs Service's enforcement components use strategic and tactical intelligence to select the optimum times and places for our enforcement operations. We monitor our detection systems to identify illegal aircraft intrusions, and use sensor-equipped and other aircraft to intercept and track the suspects.

In order to address this national problem effectively, Customs has initiated numerous programs to enhance and support our air interdiction efforts. Operational tests of the improved air strategy in south Florida during fiscal year 1981, and Operation Thunderbolt in fiscal year 1982, proved successful by the establishment of good air interdiction tactics and the identification of specific enhancements which could increase program effectiveness.

These "real-world" tests proved the increased effectiveness and capability of the airborne radar aircraft to detect the low-flying suspect general aviation aircraft. The air strategy test from October 1980 to March 1981, for example, produced a 177-percent increase in pilot arrests, drug and aircraft seizures compared to the arrests and seizures made during the same 5 months the year before. Due to the increased detection capability established during that test, Customs detected 254 suspicious aircraft border crossings, screened out certain legitimate aviators, and referred 157 targets for interdiction action. Forty-three violator aircraft were actually apprehended resulting in the arrest of 36 pilots, the seizure of 36 aircraft, and seizure of narcotics totaling 327 pounds of cocaine, 37,887 pounds of marihuana, and 1,283,150 quaalude tablets.

Many of the improvements recommended due to the experience of such operations require action and support by other Federal agencies or the Congress. A major outgrowth and enhancement to the Federal air interdiction effort was the relaxation of "posse comitatus" in December 1981.

Subsequently, the Department of Defense has increased its support and assistance to the Customs Service in drug interdiction. The meshing of military resources, such as the E-2 aircraft, Black Hawk helicopter, and the Cudjoe Key tethered aerostat radar, with prove air interdiction tactics, has made substantive improvements in our capability to detect the low-flying smuggler upon his intrusion of U.S. airspace, maintain a radar track, and succeed in apprehending him.

Customs has long enjoyed the cooperation and assistance of the Federal Aviation Administration, nationally and locally. FAA support has become an integral part of the air strategy and customs tactical operations. We want to take this opportunity to specifically recognize the FAA's efforts in May 1982 when it effected a major

change in air defense regulations by requiring all private aircraft entering into Florida from foreign airspace to be on a filed flight plan and identified.

Customs amendment of 19 CFR, part 6, concurrently expanded the special reporting requirements for general aviation aircraft entering the States via the Mexican, gulf, and Atlantic coast borders. These coordinated actions and the increase of information generated from their implementation has improved the Customs officer's capability to effectively screen and identify the illegal target from the legitimate private flyer.

The Customs Service is greatly encouraged by the many avenues of support realized during this administration for law enforcement. Through Vice President Bush's enforcement initiatives and the assistance and support of this Congress, we feel our National Air Interdiction Program will be increasingly effective in its activity.

Our effectiveness should be enhanced even more by our participation in the recently established National Narcotics Border Interdiction System, NNBIS, which is led by the Vice President. Customs measures its success not only in seizures and arrests, but also in deterring the would-be smuggler. Changes to current Federal regulations can be very effective, in themselves, as a deterrent.

With this thought in mind, I would like to address our views on S. 1146. The Customs Service supports the broad scope of the changes of this legislation in its addressing the need to place more stringent administrative and criminal penalties on the airmen engaged in illegal transport of narcotics by aircraft, aircraft owners who permit the use of their aircraft for the illegal transportation of narcotics, and persons involved in the counterfeiting, possession or distribution of fraudulent or altered certificates issued under the Federal Aviation Act.

We also wish to defer to the Department of Justice and concur with its opposition to section 5 of the legislation. These are the same areas which were addressed during hearings on H.R. 1580 in April.

We do want to recognize one particular area of Customs' concern. FAA resources are totally dedicated to its mission of flight safety and training, which precludes any meaningful expectation of law enforcement investigative activity in the enforcement and implementation of the criminal law aspects of this legislation.

By the very nature of the Customs enforcement mission of air interdiction, Customs officers come directly in contact with violators of these proposed changes in the criminal laws. Unless Customs officers are designated specific authority to arrest for criminal violations, the potential for confusion exists.

This is important because the evidence of criminal activities is usually apparent to the Customs officers who observe the action in the normal course of their duties. This specific authority would enable the Customs officer to arrest the violator on the spot. In this regard, we suggest your support of Senate bill S. 829, which expands Customs officers' law enforcement authority to include offenses such as these.

The Customs Service, in summary, requests the consideration of the subcommittee to address the designation of the Customs officer to enforce the criminal aspects of this legislation.

Madam Chairman, again I want to emphasize Customs support of the proposed S. 1146. We believe that it will serve as an additional enhancement to the air interdiction effort through the establishment of administrative action and criminal penalties which will increase the risk of the violator due to its potential impact on his personal and otherwise legitimate business activities.

This completes my formal presentation, Madam Chairman. I would be happy to respond to any questions you may have at this time.

Senator KASSEBAUM. Thank you very much, Mr. Asack.

I think we will go ahead, Mr. Knapp, and hear your testimony, and then ask questions of both of you.

Mr. KNAPP. Madame Chairman, I am pleased to be here today for the Department of Justice on S. 1146, a bill which is aimed at the problem of aircraft in illegal drug offenses.

As you know, the administration and this department are strongly committed to doing everything possible to stem the flow of illegal drugs into the United States. We regard this bill as a potential source of help in this effort and support in concept all but one of the five operative sections.

Sections 2, 3, and 4 of the bill, which provide for the revocation of airmen's certificates [1] and aircraft registration certificates [2] of persons committing drug offenses, other than simple possession offenses, where an aircraft is involved are of primary concern to the Federal Aviation Administration.

We support the general thrust of these provisions, although I will later suggest an amendment to section 2 that would strengthen that portion of the bill.

Turning first to those portions of the bill which will create new criminal offenses, we note that section 5 creates a new criminal offense of using an aircraft to knowingly transport a controlled substance in violation of a State or Federal law relating to controlled substances, other than simple possession. The section would accomplish this result by amending section 902 of the Federal Aviation Act of 1958 to add a new subsection (q)(—I want to correct my prepared statement which said (a))—to provide for criminal penalties for persons who violate section 610(a)(2) of the act, which involved illegal drug transportation.

Section 610(a)(2), in turn, forbids any person to serve as an airman without a valid airman certificate or in violation of any of a number of FAA orders, rules, or regulations. Under present law there is a civil, but not a criminal, penalty for a violation of the section.

The new subsection to be added to title 49, United States Code, section 1472 provides for imprisonment for up to 5 years and a fine of up to $25,000 for any person who knowingly and wilfully violates section 610(a)(2) in connection with the transportation by aircraft of any controlled substance where such transportation is prohibited

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[1] Possession of the proper airman certificate is necessary for anyone to serve as an airman in connection with aircraft operation or maintenance. (49 U.S.C. 1422). The term "airman" includes pilots, crew members, navigators, mechanics and air traffic controllers. 49 U.S.C. 1301.

[2] All aircraft must be registered to operate. 49 U.S.C. 1401.

by State or Federal law relating to controlled substances, other than simple possession.

The Department of Justice does not support this provision because it duplicates existing prohibitions in title 21. Essentially, the proposed new offense criminalizes a particular method of committing the offense of drug "transportation," a concept already covered in title 21, United States Code, section 841, which prohibits distribution of, or possession with intent to distribute, a controlled substance.

Moreover, another drug statute, title 21, United States Code, section 952, specifically covers the importation or smuggling of controlled substances.

Criminalizing a particular method of committing this crime; namely, by using an airplane without a valid airman certificate or while in violation of an FAA regulation, is not desirable. It may lead to the proliferation of laws creating separate crimes for particular methods of violating an existing general prohibition.

In short, we see no need, in light of current statutes, for a separate offense of transporting drugs by airplane, any more than there is a need for a separate statute covering smuggling of drugs by vessel or motor vehicle. The interest of the Government is adequately protected by the basic prohibitions against drug importation and distribution, which include the ability to forfeit the aircraft used in the offense in many instances.

In addition, and of most importance, the proposed penalty of up to 5 years in prison for the use of an aircraft is unlikely to act as a deterrent since the existing penalty structure provides for up to 15 years' imprisonment for importation or for possession with intent to distribute drugs like heroin or cocaine.

On the other hand, the Department of Justice supports section 6 of the bill, which makes two amendments to section 902(b) of the Federal Aviation Act of 1958. This section of the act presently provides for a $1,000 fine and 1 year's imprisonment for: One, forging or counterfeiting a certificate like an airman certificate or registration certificate; two, using a forged certificate; or three, displaying false identification markings on an aircraft.

Section 6 of the bill first expands the coverage of existing law to include both the sale of and possession with intent to use a fraudulent certificate. Second, it increases the penalties for a violation of the section to a felony punishable by a $25,000 fine and 5 years' imprisonment for anyone who violates it with the intent to commit a violation of a State or Federal law relating to controlled substances, other than simple possession, and for anyone who sells a forged certificate knowing that the purchaser intends to use it in such a controlled substance offense.

The use of false certificates and aircraft markings clearly facilitates the use of aircraft in illegal drug transactions, particularly by those persons whose airman or registration certificates have already been revoked for one drug offense involving an airplane. The Congress recognized the pervasive use of false identification in criminal activity generally with the enactment of the False Identification Crime Control Act of 1982, which prohibits, among other things, the transfer or production of false Federal identification documents.

The term "identification document" is defined as one intended for or commonly accepted for the purpose of identification of an individual. While the False Identification Act would cover the forging or sale of an airman certificate, it may not cover those offenses involving a registration certificate and clearly does not reach the use of false aircraft markings. Consequently, section 6 of the bill is necessary and would provide an appropriate new weapon in the Federal Government's efforts to combat illegal drugs.

Similarly, as I indicated earlier, the provisions of sections 2, 3, and 4 dealing with the revocation by the FAA of airman and aircraft registration certificates would also appear to be a welcome addition in the battle to make our borders more secure against illegal drugs. Although these sections are of primary concern to the FAA, I will point out one problem area with respect to section 2 that the subcommittee may wish to address.

Section 2 requires the Administrator of the FAA to revoke an airman certificate of any person who has been convicted of a violation, other than simple possession, if the Administrator determines that the person served as an airman in connection with the violation. That is fine. It also requires the Administrator to revoke the airman certificate of any person who he determines after notice and a hearing "knowingly served in any capacity as an airman in connection with the transportation by aircraft of any controlled substance" if the transportation is prohibited by State or Federal law relating to controlled substances.

The key word here is "transportation."

While the intent of the section is clearly to require the Administrator to revoke the airman certificate of the pilot or crewmember of a plane used in furtherance of a drug offense, it would fail in this objective if the pilot or airman was not convicted of an offense or if drugs were not actually transported on the aircraft.

By way of illustration, if a pilot knowingly flew a major drug trafficker to the Caribbean for a meeting to arrange a drug deal with a supplier for a shipment at a later date and was later granted immunity from prosecution in exchange for his testimony against the major trafficker, his certificate could not be revoked. The plane never actually transported the drugs.

We suggest that the FAA Administrator be authorized to revoke an airman certificate whenever the holder thereof has been convicted of a controlled substance violation while serving as an airman in connection with such an offense, or whenever the Administrator determines either, one, that the holder has served as an airman in connection with an offense involving the transportation by aircraft of a controlled substance, or two, that he has served as an airman in furtherance of an offense, like a conspiracy, involving a violation of a State or Federal law relating to controlled substances. We believe that such discretionary authority is appropriate even though we recognize that a primarily safety-oriented agency like the FAA may have some concerns about making such a law enforcement determination and about the resources required to do so.

Madam Chairman, that concludes my prepared remarks. I will be pleased to answer any questions the subcommittee may have.

Senator KASSEBAUM. Thank you very much, Mr. Knapp.

Mr. Asack, let me start with you just a moment, because you have suggested that the Customs officers be able to enforce the criminal aspects of this bill. What would that require? Does this mean, indeed, then, that you would be handling prosecution, or just making the arrest, or how do you envision this?

Mr. ASACK. Well, at least making the arrest, being able to make the arrest, since we are probably in many cases or in most cases the first officer on the scene and the officer with the most knowledge of the offense. Whether that would carry on to prosecution in court by the Customs Service is a matter that would have to be determined policywise within the Customs Service.

Senator KASSEBAUM. How is it handled now?

Mr. ASACK. In these cases, we have no authority to make arrests for that offense. We have authority to make drug arrests and turn the criminal and the contraband over to the drug enforcement authority. They take the case to court.

Senator KASSEBAUM. For instance, if there was a landing in western Kansas and there were safety violations, there were drugs on the plane, at that point, of course, Customs would not be on the scene.

Mr. ASACK. That is true.

Senator KASSEBAUM. And I do not know who would be, probably, at that point. That is part of the difficulty because a lot of times they are just abandoned on the spot, they are quickly in and out. But it would be easier for FAA because of just their facilities around, particularly in Kansas, to be there.

Mr. ASACK. As relates to the aircraft, that is perfectly correct. One would have to come up on the scene "hot", as they say, where the violating pilots were still in the vicinity of the aircraft.

Senator KASSEBAUM. Is that not always a problem? Is that a problem now?

I would think it would be.

Mr. ASACK. From the point of view of the Customs Service interdiction problem, it is seldom a problem of relating the pilot to the aircraft. We land behind the pilot in question, and when they emerge, we are there to greet them.

Senator KASSEBAUM. You interdict that often and know exactly where they are going that you can be right behind them?

Mr. ASACK. We interdict those people we detect who are suspect, and wherever they are going to go, we are going to go, and whenever they land, we will be landing also. We are 90 percent effective in that particular regime.

Senator KASSEBAUM. But this is, I would assume, certainly far truer in areas along the coast such as Florida, or even in Texas at the border there where you would have that opportunity for Customs to be that much more involved, and more personnel.

Is that not so?

Mr. ASACK. Well, it is so to an extent, but of course, we have followed these particular aircraft as far as Massachusetts, up as far as Cleveland, and Tennessee. They are not uncommon destinations. As long as we detect them at the border, we have an excellent chance of being at the landing point, the ultimate landing point of the aircraft.

Senator KASSEBAUM. Let me ask you, these are probably naive questions, but I am curious.

How do you follow them? You mean literally by air, or are you tracking them by radar?

Mr. ASACK. Literally by air. We normally assign a three-plane chase team to the aircraft. We have an initial intercept by a plane that is designed to be an interceptor. Then we put on tracking aircraft in addition to the original interceptor, in addition, a fast helicopter. The chase team leapfrogs across the country. When one needs fuel, the other continues the chase until the other gets fuel and picks up the chase again. We have been able to succeed with that kind of scenario.

Senator KASSEBAUM. Then you make the arrests.

So if you were following them into Kansas, you would make the arrest?

Mr. ASACK. That is true.

Senator KASSEBAUM. Then at that point are they turned over to whom?

Mr. ASACK. The normal thing is to turn them over to the Drug Enforcement Agency.

Senator KASSEBAUM. For them then to handle the prosecution?

Mr. ASACK. Right.

Senator KASSEBAUM. I am curious, on these planes, of course, if you are following immediately, then there is not any doubt, but if you have a plane that has crashed and—or has landed and everyone has cleared out prior to anyone arriving or even discovering it, are the markings on those planes changed so that it is difficult to trace back to registration?

Is that done very often?

Mr. ASACK. It is done often. I would not say it is a predominant characteristic, but it is done regularly.

Senator KASSEBAUM. Because it seems to me this is one aspect of this bill that could be very useful in attempting to get back to the person who owns the plane who might, of course, might not be knowing. As Senator Bentsen pointed out, they might be using his plane somewhere. But if there was the ability to trace back, I would think this could be an important aspect.

Mr. ASACK. Yes, it is; sure. Even if the aircraft has the number altered, there are normally serial numbers on the engines and other components on the aircraft that you can relate back to the original registration.

Senator KASSEBAUM. Mr. Knapp, I would like to ask you as far as Justice is concerned, why are not more of the pilots who are identified as such, as being involved in drug trafficking, prosecuted?

Mr. KNAPP. I think they are being prosecuted, where the evidence exists to prosecute them.

Senator KASSEBAUM. What figures are there, for instance?

Mr. KNAPP. I do not know that we have figures broken down by pilots. I will see if we can get those figures for you.

Senator KASSEBAUM. I was just curious if you had that available because it seems to me there are many times—and perhaps this is a lack of sufficient evidence—but they frequently, those who are involved and picked up in some form of trafficking, are out on parole, or sentenced for say a year as a pilot who is carried and then out,

or if the prosecution has even been finalized due to lack of evidence.

It seems to me that it would be an important aspect of this whole issue if indeed we could carry through with prosecution and sentencing that makes it such that those who are following on would realize that this is not something to be lightly taken, because I had assumed that many of these pilots could not care less, necessarily, about revocation of license, if they had one in the first place, and so some means to really put some teeth into the measure that has some meaning.

It is very frustrating, as one who is sort of on the outside looking in, when you see the prosecutions and to realize that many times there is not somehow sufficient evidence. While we need the protection of the court, it is also gathering together enough that can be used as sufficient evidence it seems to me to be important.

Mr. KNAPP. Wherever we can gather the evidence, we will prosecute. And of course, part of the administration's crime package includes provisions to strengthen sentencing and tighter restrictions on bail.

Senator KASSEBAUM. I am very supportive of that.

Do you see in this particular bill—and we have gotten into it a little bit when we were talking to Mr. Broderick with the FAA—about the interference with the Justice Department's investigation?

Mr. KNAPP. No: I think that can be worked out on a case-by-case basis. We do not anticipate any problems along that line.

Senator KASSEBAUM. How would you view the Customs Service role in the arrests and with the FAA? It seems to me that this is an area which perhaps would need to be spelled out, if there would be conflicts there.

Does the Justice Department have any thoughts on the two branches being involved in actually the arrests? I assume that is all that is involved, just the arrests?

Mr. KNAPP. That would be the job of Customs, or whatever other enforcement agency happened to be on the scene at the time. I think the FAA's role is more of an administrative nature in the situation.

Senator KASSEBAUM. That is right.

Mr. KNAPP. They have more of a quasi-judicial mission, and we need to strengthen their quasi-judicial role as opposed to what we might consider the enforcement role like Customs has.

Senator KASSEBAUM. Customs is not involved in any way other than in arrests at present? Is that correct?

Mr. ASACK. That is correct.

Senator KASSEBAUM. That would continue that way.

When I asked, I thought there was some uncertainty about what beyond an arrest would be involved.

Mr. ASACK. The customs officer is not entitled to an arrest. Flying without a license has a criminal penalty. We are not currently empowered to arrest for that.

Senator KASSEBAUM. You are saying that it would be useful to spell that out here?

Mr. ASACK. Yes.

Mr. KNAPP. Yes.

Senator KASSEBAUM. Do you see any way from the Justice standpoint in which this legislation might not comport with due process in any way? Are there any further problems than the one you mentioned with it?

Mr. KNAPP. I believe it is implicit in the bill that there would have to be some sort of hearing before the certificate could be revoked. So I do not anticipate any due process problems with the bill as it is currently structured.

Senator KASSEBAUM. You probably have not really followed as far as who should do the hearing, whether we should leave it as it is presently done, with the NTSB involved at some point in the procedure.

Mr. KNAPP. We have no reason to believe that the hearing procedure should be changed.

Senator KASSEBAUM. You said as far as the 5-year sentencing for an airman certificate violation there, you feel it would be redundant because you have got 15 years?

Mr. KNAPP. Right. It is redundant, and it lessens the existing penalties.

Senator KASSEBAUM. That certainly seems to me to be a wise observation there, that that would not, but you have nothing that deals with markings or the licensing?

Mr. KNAPP. Section 6 would be very useful to the Justice Department. It would provide us enforcement tools for various situations that we do not already have.

Senator KASSEBAUM. Thank you very much.

Mr. Menselsohn, it is a pleasure to welcome you.

Mr. MENDELSOHN. Thank you very much, Madame Chairman.

Senator KASSEBAUM. As an attorney involved in such issues, thank you for coming, and if you would introduce those accompanying you.

STATEMENT OF ALLAN W. MENDELSOHN, ATTORNEY, ACCOMPANIED BY ANTHONY CASSESE, UNITED STATES AIRCRAFT INSURANCE GROUP; AND LEO HOWE, VICE PRESIDENT, NATIONAL AVIATION UNDERWRITERS

Mr. MENDELSOHN. Thank you very much, Madam Chairman.

The three of us are very pleased and honored to be here with you today. We want to thank you for all of your assistance in moving this bill forward and drawing to it the attention that it deserves, and in bringing out the executive branch agencies that you have had before you and questioning them and seeing their enthusiasm for the bill, subject to minor legislative amendments.

Before going on with substance, however, I would like to introduce two of my favorite clients. On my right is Leo Howe, who is vice president of National Aviation Underwriters, and who has been involved in this field with me since 1977.

On my left is Anthony Cassese, who similarly has been involved in this field with the two of us since 1977. He is a senior claims manager at USAIG, one of this country's largest aviation underwriters.

The three of us have, as I said, worked in this field with a great deal of continuing interest and enthusiasm. We insure those air-

crafts that are stolen or alleged to be stolen and then used on drug runs. We have asked the FAA many, many times whether they want to withdraw registrations of owners where we have reason to believe that their aircraft have been involved on multiple occasions in drug runs. We have given the FAA evidence of the fact that certain pilots were involved in drug runs. The FAA came back to us, we believe in good faith, and said that they just could not do anything because they just did not have the necessary legislative authority.

It was after the FAA told us this that we came to the U.S. Congress. And it is our pleasure to be able to tell you that we have very seldom seen the legislative process work as well as it has in this case.

The welcome and interest that we originally received from Congressman Adam Benjamin; the work that he did in this field before his very untimely death; Mr. Mineta's work; the work of his committee; the work of your staff assistants, Mr. Doyle and Mr. Palmer; the work by Mr. Abrahams, who is on Senator Bentsen's staff; all of this has been to us an eye-opening experience because within perhaps less than a year we have a bill that has been heard and already reported out favorably by the House Aviation Subcommittee, and now it is here before your subcommittee.

Senator KASSEBAUM. It is an unusually expeditious procedure on the part of Congress, I must admit.

Mr. MENDELSOHN. We attribute a good deal of that to your personal interest and to your staff who brought it forward and who have done such an absolutely great job with it.

At an earlier point in this hearing, you suggested that some of your questions might be naive. Leo and Tony and I have been delighted with your questions because your questions have almost been the same questions we have asked the executive branch ourselves. Your questions have been most helpful.

We are here today to give you whatever information you would like to ask of us. We have a prepared statement that we have submitted for the record. We would be delighted not to have to read that statement, if that would be all right with you. We would be more than pleased to try to answer any of your questions. Before doing so, however, I would like to give Leo and Tony both an opportunity to give you their initial views. Then we can answer questions.

Senator KASSEBAUM. Thank you. I very much appreciate it because at 11 o'clock I will have to answer a quorum and then a cloture vote. I appreciate that and welcome any comments.

Mr. HOWE. Senator, I will be very brief.

A couple of things, why we are so very interested and why we so wholeheartedly support the passage of this legislation. We in the aviation insurance business, through the issuance of our insurance policies, can in fact limit the exposure, if you will, to pay for or subsidize—through the repurchase of aircraft, through paying for stolen aircraft—the drugrunning industry. But we do not want to subsidize drugrunning. As a matter of fact, in our aviation insurance policy, we have an exclusion for anyone complicit in drug trafficking.

However, the payment of claims is not really the reason we are interested in this legislation. We are interested in stopping aircraft theft for drugrunning at its source—before it gets to the point where it might be a claim that we, in turn, must deny or, in turn, pay, depending on the facts or the decision of a court. We think this bill would be a deterrent, and particularly a deterrent for the flight instructor, the out-of-work airline pilot who is so tempted to make $20,000, $30,000 or more by making just one drug run, which then turns into two, then turns into three, and then he gets into the process. We think this bill will be very, very helpful in providing a deterent against that kind of activity.

Second, by getting to the owners of the aircraft who are also complicit in the drug smuggling and revoking their right to register aircraft, this bill is the very first time that will be able to occur.

I would like to mention one other issue by way of a procedural matter. This issue came up in the testimony before Congressman Mineta's committee in the House. That is the pilot certificate. This is my pilot's license. It is nothing more than a plain piece of paper. It is quite old now, but it is a plain piece of paper which has typewriting on it. If I have an IBM Selectric typewriter with the right size type, I can duplicate this license almost exactly. Yet, it is my pilot's license which took a good number of months and a lot of money to get.

On the other hand, this is my driver's license. It is plasticized, and it is much less forgeable than my pilot's license.

And I would simply submit that I would like to see something that more resembles my driver's license for something as valuable as a pilot's license.

Senator, thank you very much. That is really all I have to say, and I would be happy to respond.

Mr. MENDELSOHN. I would just like to add on a few thoughts to what Leo just said.

The reason why we would like a nonforgeable pilot's license is because many pilots rent aircrafts with forged or inadequate documentation of this type, and you are never able to identify them. That is the principle source of smuggling. The pilot shows a license like this. It has no picture, and it may or may not be a forgery. The FPO, the people who are going to rent the aircraft, they say to the pilot can you operate that, aircraft? Are you qualified? Once the pilot shows he is qualified, the FPO never knows who that man is, what his real identity is. And that is the man most likely then to go off on a drug run.

On the other hand, if you have something nonforgeable—and the technology exists today to make a pilot's license nonforgeable—the man will have to identify himself. His picture will be there. And if the aircraft is then rented out to that man without a record of his identity, you have a pretty good idea that the person renting the aircraft may be in complicity with the offense if a drug run is committed.

Senator KASSEBAUM. It sounds like a very sensible idea.

Is Mr. Broderick still here?

Is anybody from FAA?

Oh, I was just curious as to what their thoughts would be on that.

Mr. HOWE. I really do not want to speak for Mr. Broderick. I did have a conversation with him on the subject just yesterday, and I will simply mention that it is my understanding that the FAA does not necessarily believe that forgeable pilot licenses are that great a problem. They know it is forgeable, but they believe that making it less forgeable, will not deter the pilot who wants to go off on a drug run. So I am not convinced that I have convinced the FAA that this is something they should do.

I did not mean to interject myself for Mr. Broderick.

Senator KASSEBAUM. I was just curious. It seems to me that with the increased number of pilots and technology and so forth, that even if it would not perhaps, would or would not be of benefit in this area, it seems to me to be something that lends itself to more efficient, tighter controls that would be of benefit.

Mr. CASSESE. Thank you very much, Madame Chairman.

Let me say as a resident of New York City, I see such a booming retail trade, rather open, in the sale and purchase of these illicit narcotic drugs that in spite of the outstanding efforts that we see on the part of Justice and Customs, especially Customs, I would say that there is a tremendous amount that is slipping through the net that they have set up, probably more than 80 or 90 percent.

The legislation before you today is a step in the right direction. We commend it to you for obvious sound business reasons and as members of this society, and we thank you for your efforts.

Let me just add for the record there are five basic scenarios that we see where this problem comes up. Obviously, as Senator Bentsen pointed out, the outright theft of an aircraft. Second, in a situation, let's call it an embezzlement or conversion by an employee of an aircraft owner where the employee takes the aircraft that he legitimately had access to and goes out and attempts to bring drugs into the country illegally. In these two cases, there would be a valid claim for that aircraft, assuming there is no complicity on the part of the owner. Again there would be coverage for the rental which we just discussed, from a legitimate rental agency, where the pilot comes in and under false pretenses rents an aircraft and uses it for the illicit purpose. But there would not be coverage in the two cases where the owner, him or herself uses their own aircraft for a drug run or finally, where the rental agency is in complicity with the renter or employee. In this last case I would assume that agency principles would impose vicarious liability on the owner who is the principal of the aircraft rental agency.

As far as the Justice Department statement about the effective lessening of the penalties for the pilot, I disagree to the extent that we have seen many situations and I would be glad to give you an example or two where the pilot goes out for the second or third time, where he was not prosecuted on the first one because he either bought off or there was insufficient evidence for a criminal prosecution, and he thus had nothing over his head to cause him to think twice about what he was doing. He may or may not get caught the second time. He may or may not be prosecuted. But yet, the addition of the criminal penalties to the already—well, to the previously weak civil penalties in the Aviation Act, I think would provide a much tougher deterrent for both the pilots and the owners and operators.

Senator KASSEBAUM. I appreciate that comment.

I would like to ask all three of you, because you have given some very interesting ideas, really at the core of it is—and you said that you believed this was a deterrent—why would it be a deterrent? If a pilot is caught, would not the revocation of his license be the least of his worries?

Mr. MENDELSOHN. I think not.

Mr. HOWE. No; to a professional pilot, the thought of having his pilot's license revoked—and I am thinking primarily now of this out-of-work airline pilot or the certified flight instructor who wants to make that first run, and that is all he really wants to do for the moment. I guess a hardened drug trafficker could care less whether he had a license or not. He will steal an airplane and simply go do it and hope he does not get caught. That is exactly the people I hope Customs will catch.

But the deterrent comes from the number of people who find it monetarily rewarding and attractive to make the first run, with the option that if they got caught their livelihood can continue, because that is what happens today. But if their livelihood cannot or will not continue, here is where the deterrent should work.

Senator KASSEBAUM. Do you have any way of knowing how many of the pilots have been involved in these instances? And there are a number, of course, who have that we do not even know of who are really legitimate pilots who indeed have licenses, who do care.

Mr. HOWE. I do not know how many, Senator, but I do know that all of them that I have come in contact with in the last, say, 2 years—well, the last 3 years, have had legitimate pilot licenses. They have had a pilot license. The license that they had in their possession, however, did not always match up with their true records in Oklahoma City. They would type on ratings of Lear jets so they could fly Lear jets.

Mr. MENDELSOHN. Or they would simply forge it to hide their identity.

This is the license, the license of Leo Howe. The drug runner will have some other license which has a name, say, like Allan Smith.

Senator KASSEBAUM. Is that done very often?

Mr. MENDELSOHN. Yes, that is done in the rental area kind of regularly.

Mr. HOWE. But in all the situations of the pilots that we have found, they all had a legitimate pilot license at one time. Again, they may have changed it, which they do regularly, but they all had a legitimate pilot's license to begin with.

Mr. CASSESE. We are talking here about a younger pilot or a competent pilot at the lower end of the professional scale financially and in terms of status.

Let me say that at one time some years ago I was personally offered $80,000 in cash to make two round trips from Arizona to Mexico.

Mr. MENDELSOHN. Did you accept?

Mr. CASSESE. No. Let me again say I did not accept.

This is just to give you the idea of the amount of money involved and the tremendous temptation for a young airman at the bottom end of his profession and earning very little money, who may be in debt, who may have a family, that this sort of temptation comes

very regularly to a person, especially in Southern States and your home State of Kansas. We see that people will acquiesce to begin with only once or twice. But then they go back, if they get away with it. You heard the FAA testify that in the past they have been relatively unable, they felt, under the existing law, to do anything about that.

With wide publicity for this legislation, I think we would have a deterrent to that type of an individual who is probably one of the more common runners of drugs to this country.

Senator KASSEBAUM. Mr. Mendelsohn, in your experience, why is it that pilots who have had their license revoked or could have administratively under this regulation for drug activities, not be convicted, even though Justice has said that indeed prosecutions do proceed ahead and frequently fail because of lack of evidence? It is frustrating to see that there are a number of cases that come before the administrative law judge or are taken to court, and there simply does not seem to be the same evidence for conviction.

Mr. MENDELSOHN. I will give you the best answer I am able to.

I have had several cases where I have reported pilots to various governmental agencies. I reported one that was involved in a pick-up of a substantial amount of cocaine in Colombia. I had a transcript of a statement that he had made over the telephone to an individual, and he said, "Yes, I took the drug run to Colombia and we cracked up."

I gave that to the Department of Justice, no, to the DEA, and the DEA said to me, well, it would just be too hard to prosecute him because we cannot get evidence in Colombia. There is no way we can get evidence in Colombia as to his involvement and bring it all back to the U.S. That was one case.

Senator KASSEBAUM. Let me ask you about that instance because it is probably very true, it would be very difficult to get evidence in Colombia. But now, was that a pilot who was flying a plane from here?

Mr. MENDELSOHN. Yes, from Leesburg Airport.

Senator KASSEBAUM. But there is no way from here to show evidence of some sort of exchange of cash? Evidently there was not at that point.

Mr. MENDELSOHN. There was not.

Senator KASSEBAUM. But there was nothing from this side.

Mr. MENDELSOHN. That is why this legislation is so desirable. Under this legislation, the FAA will be able to go after that man and say to him: show cause why your pilot license should be continued because we have evidence you were in Colombia. Then that man has to come in and show cause. Otherwise, his pilot's license will be revoked.

Criminally it is different. Criminally you have to prove guilt beyond a reasonable doubt. That takes an awful lot of evidence. You may not be able to get such evidence from Colombia.

I will give you another reason, though. There are several reasons.

The second reason is that sometimes—a DEA man once said to me "Mr. Mendelsohn a thousand pounds of marijuana is just not worth it. The cost of a prosecution in this case is too expensive. If you give me a thousand pounds of cocaine, we will take him on, but

a thousand pounds of marijuana just is not worth the effort it is going to take the Federal authorities to prosecute".

There is still a third reason I think that is very important. The pilot is the least important cog in this machine. It is the man who owns that aircraft or the man who got that aircraft, he is the fellow who is making the substantial fortune off the people that Tony talks about, the poor young people in New York City standing on the street corners. Tony may get offered $80,000 for two drug runs. That man who owns the aircraft, he is making a $1 million out of it. That is the man you want.

So sometimes the Federal authority, I think properly, will forget about the pilot in an effort to get the man who owns the aircraft or the man who engineered the drug run.

Senator KASSEBAUM. Are there any suggestions beyond the change, perhaps, in the license that you would suggest making that could even add greater teeth to this legislation?

Mr. MENDELSOHN. I would like to just mention two areas that we have worked in very carefully. One is the United States-Mexican treaty on the return of stolen aircraft and the identification of aircraft that have been used in drug runs. The Senate advised and consented that convention by a two-thirds majority vote just about 2 years ago. But that convention is not yet in force. We do not know why. We suspect it is probably some hesitation on the Mexican part. But we would like to see the ratification with the advice and consent of the Senate carried through to full and complete implementation of the treaty.

Another area is the area of changing of N numbers. That is a very serious area. That is an area the FAA can take on, whether by international treaty or by some other means. But we have to stop this practice of so easily changing N numbers. It is carried on in Mexico all the time.

Leo has pictures right now of one of his aircraft where they changed the N number in Mexico. Once they change an N number and put on an X number, that aircraft is a wild card.

Mr. HOWE. As a matter of fact, Senator, that aircraft is being used by the Mexican Government at the moment. We have been trying to get it back for the owner, and the local official likes the airplane very much and simply took the U.S. registration, painted it off, put the Mexican registration on, and we are standing there saying please, sir, why can we not get our airplane back and give it to this gentleman who owns it, who is innocent of any wrong doing and would like to have it back? It is his airplane and he paid for it. At the moment we are having a little difficulty getting it done from the Mexican Government official.

That is one reason.

We testified 1 year ago before the Senate Foreign Relations Committee on the Mexican convention for the return of these vehicles. This is what Mr. Mendelsohn was referring to. We would certainly like to see it implemented. The problem may very well be on the Mexican side.

Senator KASSEBAUM. Changing the numbers, though I asked earlier if this was done, and the serial numbers on motors and so forth, can you not show that?

Mr. HOWE. Yes; you can, if you can get into there and get the serial numbers off the engine.

Senator KASSEBAUM. Nobody is paying any attention at that point anyway?

Mr. HOWE. That is true. They are very small.

The other thing is that unlike automobiles, aircraft change engines quite regularly. Unless you have the paper trail in a little book, it is difficult to trace the serial number from engine to engine because engines come off and some other engine comes on about every 1,200 hours. So if the aircraft has a little age on it, the serial number on the engine may not be helpful.

There is another place in the aircraft where the data plate is riveted to the airframe. That has the aircraft serial number on it which actually identifies the airplane and ties it to the N number that is registered.

Senator KASSEBAUM. Well, I very much appreciate your thoughtful comments and your insight into this issue, and hope you will continue to share with us any suggestions you might have, and we will certainly take your thoughts under consideration when we mark up.

Thank you.

[The statement follows:]

STATEMENT OF ALLAN I. MENDELSOHN, ACCOMPANIED BY ANTHONY CASSESE OF UNITED STATES AIRCRAFT INSURANCE GROUP; LEO HOWE OF NATIONAL AVIATION UNDERWRITERS; AND DEANES ROWEDDER OF SOUTHEASTERN AVIATION UNDERWRITERS

Madam Chairman and Members of the Committee:

INTRODUCTION

It is our pleasure to appear before you today to testify in support of the prompt enactment of S. 1146. It is perhaps no secret that the four of us who are here and join in this testimony were among the most active proponents for the drafting and introduction of this bill. We previously testified in favor of this bill before Chairman Mineta's Aviation Subcommittee in the House, and we are pleased to be here today to testify before your Committee.

Before getting into substance, let me first introduce myself and my three colleagues. I am Allan Mendelsohn. During the 1960s, I had the pleasure of spending over five years as a senior attorney in the Office of the Legal Adviser of the Department of State. Now, I am a Washington lawyer with the firm of Ward & Mendelsohn, and I enjoy among my clients the three gentlemen who are here with me and who, among themselves, represent almost 40 percent of this country's aviation insurance market for private aircraft and perhaps as much as 50% of this country's domestic aviation market for commercial or airline insurance. We have here Anthony Cassese of United States Aircraft Insurance Group (USAIG), Leo Howe of National Aviation Underwriters, and Deanes Rowedder of Southeastern Aviation Underwriters (SEAU).

I believe we should tell you, Madam Chairman, that in addition to your efforts and those of Senator Bentsen in moving this bill forward, we owe a deep debt of gratitude to a Congressional colleague of yours, Congressman Adam Benjamin, who unfortunately passed away late last year. He and his staff assistant, Peter Visclosky, did much of the preparatory work on this bill that we, as private citizens, were unable to do. Mr. Benjamin took a deep, personal, and continuing interest in the subject, because he well appreciated its dangers to our society and our country. It was because of his thoughtful and persistent efforts that the Federal Aviation Administration (FAA) was finally prevailed upon to produce the information from its files that confirmed our belief that the proposed legislation is not merely useful, it is essential. We have passed along to your Committee staff much of Mr. Benjamin's work and correspondence with the FAA, and I believe they fully appreciate its significance.

I would be remiss in this regard if I did not also add a note of thanks to Mr. Dan McKinnon, the Chairman of our Civil Aeronautics Board. We understand that his efforts with the scheduled airlines to try to curtail their use as unwitting carriers of drugs into this country are beginning to the effective and to show signs of success. The public very much welcomes and appeciates those efforts on his part, expecially as he was among the first to take on these tasks. We also know that it is now up to us to do for general aviation what Mr. McKinnon is doing for scheduled aviation.

BACKGROUND

We would like now to provide you with a little background on S. 1146 and, in doing so, we will be able to clarify why, as aviation underwriters, we so strongly support its enactment.

This committee is aware that most thoughtful people today believe that addictive drugs are probably the single greatest danger to this country or, at the least, the single largest cause for criminal activities, both organized and individual, in this country: Estimates differ widely, but it can safely be said that at least $30 billion dollars worth of cocaine was smuggled into this country last year, mostly from Colombia. The coca fields are in Bolivia, Peru and Colombia, but Colombia is the final processing and transshipment point. The amount of marijuana smuggled into this country from Latin and South America is estimated to carry a lower value, but it arrives in greater quantities.

Including heroin, quaaludes and other dangerous drugs, this country has a booming $80 billion drug market, most of which is in the underground economy untaxed and connected with all varieties of criminal activities.

We do not suggest that S. 1146 will cure this problem. What we do suggest, however, is that S. 1146 will help measurably in discovering and deterring those who are responsible for providing and operating probably the most popular single means of transport by which these drugs are smuggled into our country: the small private aircraft. Perhaps some of you read the extremely moving Time magazine article of April 11, 1983 on cocaine. It was an eye-opening and shattering article about the dangers of this drug that, little by little, seems to have become the play toy of the well-to-do in this country. The four of us have read that article, and we commend it to each of you.

Among the extremely interesting statistics included in the article was one stating that approximately 40 percent of the cocaine smuggled into this country arrives on small private aircraft. These are the aircraft that manage to escape the increasingly vigilant efforts of our DEA, FBI and other special federal drug agents who, under the active and resolute leadership of Vice President Bush and his Drug Task Force, have finally begun to make some inroads into what has become almost a regularly scheduled airline business. But even with these recent successes, everyone still seems to agree that for every kilo of cocaine or marijuana that is caught at our borders, at least four other kilos get through. And it is no wonder, if you think about the huge profits that are involved.

One thousand pounds of cocaine—not even a full load for a small aircraft—can easily be worth $15 million wholesale, and this is before it is broken down where it could have a street value of over $100 per gram or as much as $45 million for the 1,000 pounds. A very recent article from a Florida newspaper, which we are attaching as Exhibit 1,[1] tells about a seizure of 625 pounds of cocaine having a reported "street" value of about $200 million.

Marijuana is not as valuable, but then again full plane loads of 2,000 to 3,000 pounds of marijuana are not at all uncommon—$300,000 to $500,000 is the value often placed on a successful marijuana run. We have heard that a pilot tempted to take one run per year, simply to supplement his income with one evening of tax free work, can earn as much as $50,000 on a marijuana run and as much as $100,000 on a cocaine run, depending on how well he negotiates, the aircraft he is to operate, and how clean or safe the run is made to appear.

The behind-the-scenes people who manage and ultimately profit from these runs can earn such huge sums of money that even if an occasional run fails or a $200,000 or $300,000 aircraft is occasionally seized by some government authorities or ditched at sea, this is treated as nothing more than the costs of doing business, which are far outweighed by the profits.

Given these staggering sums of money, I hope you will appreciate why we do not believe that legislation providing only for fines or fail sentences, no matter how severe, will bring about any real solution. Apart from the fact that some drug opera-

[1] The exhibits referred to throughout were not reproducible and are in the Committee files.

tors have reportedly been able to continue their operations even when in jail, the fact of the matter is that, for various other reasons, most of the pilots who run drugs, even when apprehended, are seldom, if ever, convicted. And as for the owners of the aircraft, we know that some are never even questioned, much less convicted.

THE UNITED STATES-MEXICAN TREATY AND CONGRESSMAN BENJAMIN'S CORRESPONDENCE WITH THE FAA

Last June, just over a year ago, the same four of us who are here today testified before the Senate Foreign Relations Committee in support of a treaty requiring the Government of Mexico to return U.S. registered aircraft that were allegedly stolen from the United States, flown to Mexico, and confiscated there while they were involved in some illegal activity, usually smuggling drugs or some contraband. In our testimony before the Foreign Relations Committee, we suggested that there may have been as many as 400 such U.S. registered aircraft which had been confiscated by Mexico over the past several years and which were being held by Mexico.

We testified that, because many of these aircraft had been stolen from their lawful and innocent American owners, the Mexican Government had no right to continue holding them and—as was so often the case—letting them be used by their Generals and other officials until a sufficient amount of money was paid (usually under the table) to work their release. We supported the treaty because it went a long way towards assuring a legal process both for identifying the aircraft and for arranging its prompt return or proof that the U.S. owners were in fact innocent.

We are pleased to tell you that, by a two-thirds majority vote, the Senate last year gave its advice and consent to this Treaty. Unfortunately, Mexico has decided to delay its implementation indefinitely. We do not know why the Mexican Government reached this decision, though the State Department may be able to tell you. The 400 U.S. registered aircraft, however, still remain in Mexico.

Attached to our testimony before the Foreign Relations Committee was also a 19 page list, which had been officially prepared by the Colombian Government and which showed 120 other U.S. registered aircraft (with each of their "N" numbers also listed) that the Colombians had confiscated. More recently, in the Time magazine article we earlier mentioned, there was a photo showing just some of the dozens of U.S. registered aircraft that were seized by U.S. authorities because of drug-smuggling activities. I am attaching a copy of this photo (as Exhibit 2) because it provides at least a modest idea of the scope of the problem before us.

We underwriters had known about these hundreds of aircraft for several years. We had repeatedly asked the FAA whether they had ever contacted the registered owners of any of them, particularly those that were in Colombia and Mexico, to determine whether these owners were involved in the illegal activity that caused the seizure. If so, we recommended to the FAA that the registrations for their aircraft should be suspended or revoked. The FAA advised us informally that it viewed itself as powerless to do anything about these aircraft, their registrations, or their owners and that, accordingly, it had never even contacted them much less taken any steps with respect to their pilot licenses or registrations.

Congressman Benjamin took a very interest in our effects with the FAA and, when we finally reached an impasse, he decided that it was up to him officially, and as Chairman of the House Transportation Appropriations Subcommittee, to confirm whether, indeed, the FAA could or would do anything in these cricumstances. In his first letter to the FAA, Mr. Benjamin selected at random some seventeen "N" numbered aircraft from the famous Colombian list of 120, and he asked the FAA for information about each one, the circumstances of its seizure in Colombia, and what, if anything, the FAA had done respecting the aircraft, or its owner, or its pilot if known.

The FAA responded with some information about ownership but no indication as to whether it (the FAA) had done anything. This response very definitely piqued Mr. Benjamin's curiosity, and he then prepared a list of twelve questions, asking the FAA specifically about how it interprets its powers and what, if anything, it had done with respect to certain aircraft and pilots which (or who) had been known to be involved in drug related activities and sometimes on multiple occasions—through apparently never convicted. It took the FAA almost six months to respond to this letter, but when they finally did, the response clearly demonstrated—and today corroborates—the need for the prompt enactment of S.1146.

While we underwriters were not privy to the complete response that the FAA gave to Congressman Benjamin, we were provided with two question and response exchanges, which contained only public and publicly available information and

which could therefore be released. We were also assured at that time that these two exchanges more or less summarized the thrust of the entire letter. They follow:

Question No. 4. (By Congressman Benjamin)

If the FAA were to learn that an aircraft was being used by its owner-pilot probably on a drug run, would the FAA take steps:

(a) To prevent the owner from being able to continue enjoying U.S. registry for that aircraft;

(b) To prevent the owner from ever again being able to obtain—either individually or as a partner or corporate participant—U.S. registration for an aircraft; and

(c) To suspend or revoke the pilot's FAA license and, if so, would it be permanent or for how long?

FAA answer

(a) Even if there were proof that the owner-pilot was to use the aircraft on a drug run, the FAA would have no authority under existing statutes to prevent the owner from being able to continue enjoying U.S. registry for that aircraft.

(b) Under existing statutes, the FAA could not prevent the owner from ever again being able to obtain—either individually or as a partner or corporate participant—U.S. registration for an aircraft.

(c) Under current regulations, an airman certificate could be revoked or suspended if such airman was convicted in a U.S. court of violating any U.S. Federal or state statute relating to transportation of narcotics drugs or marijuana. Further, certificate action could be taken if he/she were found to be illegally carrying narcotic drugs within the United States.

Question No. 9 (By Congressman Benjamin)

There was another and more recent [newspaper] article which I myself saw last March 12 in the Washington Post. It refers to two aircraft, one loaded with $500,000 worth of marijuana and the other loaded with $130 million worth of cocaine. I would like to know what action the FAA has taken against the registered owners of these aircraft and against the pilots if they have ever been identified.

FAA answer

In the matter of the March 11, 1982, incident at the Monroe County Airport, Madisonville, Tennessee, that was reported in the Washington Post, all suspected drug traffickers got away and the pilot of the aircraft involved has not yet been identified. The aircraft involved was identified as a twin engine Piper PA-31, N9111Y, owned by Executive Air Service, Williamstown, Maine. The FAA can take no action against the owners unless they were arrested in connection with illegal transportation of drugs or narcotics within the United States.

In the matter of the second aircraft that executed a forced landing at Bimini, the following data is provided: the aircraft was identified as a Cessna, N-420B and alleged initially to be owned by Skyway Charter, Inc., 820 Northeast 79th Street, Miami, Florida. A U.S. Customs chase plane pursued N-420B to the vicinity of the Florida coastline where the aircraft turned back and, apparently low on fuel, executed a forced landing at Bimini where it was abandoned on the runway. The crew escaped and have not been identified. On March 31, 1982, the aircraft was released on $60,000 bond to Raymond Taylor, Vice President, Aircraft Recovery Service, Inc. Current aircraft registry data reflect the aircraft is registered to a Richard C. Keiter, 2655 North Fitch Mountain Road, Haeldsburg, California 95448.

No action has been taken by the FAA against the registered owner of the aircraft, and no action would be taken against the pilots, if identified, unless convicted in a U.S. court of illegal trafficking in drugs or found to have been illegally carrying narcotics or drugs within the United States."

Congressman Benjamin believed—and we shared his views then and now—that the FAA should have more power to do something about the aircraft it registers and the pilots it licenses, when there is, as so often seems to happen, a great deal of reason to believe that they were directly involved in drug smuggling. And it was in this way that the idea for some of the provisions of S. 1146 came to exist.

PROCEDURAL DUE PROCESS

As the draftsmanship of the bill was finally refined by your able staff and Mr. Mineta's, the bill provides ample assurances that no aircraft registration or pilot certificate can ever be revoked until and unless the individual is accorded rights to

both a full hearing and agency as well as judicial review. These safeguards are fully in keeping with our customary procedural due process requirements.

As we envision how the procedure would work, let us take the example of the company which owned the aircraft that carried that $500,000 in marijuana that we spoke about earlier.

Instead of simply taking note of the drugs for purposes of its records, or passing it on to some other federal agency, the Administrator of the FAA, through an Administrative Law Judge, would issue a show cause order to that company and its President, asking him, in light of the evidence with respect to the marijuana found aboard his aircraft, to show cause why his registration should not be revoked. He would be provided with no less than 30 days to do so; he would be permitted to retain counsel; and he would be given the opportunity of a full and complete hearing with all the associated rights.

If he appeared and credibly proved, as many owners can, that his aircraft was really stolen and that he had nothing to do with the drug run, I would presume that the Law Judge would not touch his registration and would promptly dismiss the case. But if, for example, this was the second time his (or one of his) registered aircraft was involved in a drug run, or if the Law Judge found his testimony or explanation not credible, then the Judge would most likely order that his aircraft be deregistered and that he not again be permitted to register an aircraft in the United States for five years.

But this finding would by no means constitute a final order. The individual would have a right to appeal that decision to the FAA Administrator or the NTSB. Moreover, he would enjoy at that level the same procedural safeguards as a litigant before the CAB who appeals a Law Judge's decision to the full Board. And as you all know, this appeal is a real one, as Agencies and Administrators in our government, and especially in aviation related matters, take their responsibilities very seriously.

But even this would not be the end because, if the Administrator's decision were also adverse, that decision would be appealable to the U.S. Court of appeals here in the District of Columbia. And as you know, our Court of Appeals here is never reluctant to overturn any agency decision where it finds that the rights of an individual were not adequately and properly respected. In terms of due process, therefore, we very sincerely doubt whether any more protection could have reasonably been provided than that which the Bill now provides.

POTENTIAL DETERRENT EFFECT

Let me hasten to add in this respect that we doubt whether many cases will go this full route. Perhaps over the years, a few may. But the majority will, we believe, result in finding that will not be contested. And in this way alone, the very presence of the legislation—which will surely be known to every pilot and owner—will act as a deterrent to those who full well know and take advantage of the fact that today the U.S. "N" number, however meaningful in international law, is easy to come by, can be easily abused, and indeed serves almost as an invitation to those who wish to register their aircraft and then use it or them for drug-related purposes.

The same thing is true also for pilot certifications. Such an FAA issued certification ought not be an open license for individuals to pilot aircraft on drug runs—knowing that the chances of their being caught are slim, those of being convicted even slimmer, and those of suffering license revocation the slimmest of all. You may be sure that a pilot who knows that his license may be revoked—if he is identified as being involved in a drug run and cannot adequately explain away his participation—will think twice about participating in the first place. But even if he doesn't think twice the first time, he should not have a second time to even think about it, as his license will be revoked for five years.

We believe that this should and will become an effective deterrent—though we fully recognize that a truly effective deterrent is hard, perhaps even impossible, to fashion for an individual faced with the temptation of a tax free $50,000 or $100,000 for only one day's work.

FORGEABLE PILOT LICENSES

The Bill also contains provisions for substantial criminal penalties and imprisonment for operating an aircraft on a drug run without an airman's certificate, or for selling a fraudulent airman's certificate. We certainly support these provisions and their enactment. But we think the FAA can administratively supplement these provisions with a relatively inexpensive effort that could accomplish perhaps much

more in our common effort to discourage pilots from using forged licenses or operating without a license at all.

Today, as this Committee may know, the FAA's pilot certificate is put on nothing more than a paper card, almost like the cards we used on the Metro. The four of us, together with Congressman Benjamin, tried to prevail on the FAA to design and use a non-forgeable type license or at least one that is of more durable type. If nothing else, the D.C. Drivers License, which is plasticized, has one's picture, and uses one's social security number, is an example of what the FAA can do—at a cost to the recipient (not the Government) of perhaps the same $2 or $3 which is what we pay here in the District.

We believe it is extremely important to have as non-forgeable a pilot's certificate as possible, and we shall give you the reasons why. In more than 50 percent of the cases we handle, we are told by the owner of Fixed Based Operator (FBO) that they simply rented the plane to Mr. "X" who they believed to be a fully qualified pilot and who they also believed had no intent to use it on a drug run. In many instances, FBO's or owner/renters, even if they ask to see and inspect a pilot's certificate, will not pay too much attention to it. These certificates have no identifying features, no affixed picture, and they can be very easily forged. In other words, the card which is issued by the FAA as a pilot's license today probably has less importance than a Metro card and certainly less importance, for indentification purposes, than a D.C. Drivers License.

Moreover, in most instances where FBO's rent out aircraft, they will usually assure themselves that the person is capable of flying the aircraft he wishes to rent. However, the FBO will do no background check on the renter, nor even verify the renter's indentity. He will merely rely for I.D. purposes on a piece of easily forgeable paper, which is the FAA's pilot license. So far as the critical issue of identity is concerned, therefore, it ss fair to say that a good portion of those who today rent small aircraft for occasional use are able to do so without properly or completely identifying themselves. This is especially true for those who intend to go off on drug runs.

While this is another problem that probably can never be fully solved, a relatively non-forgeable license would go a long way toward assuring that any individual seeking to rent an aircraft would have to provide some actual form of identification to the owner or FBO from whom the aircraft is rented. We would hope that we might soon reach the time when, by pressing a few buttons on a telephone or typewriter/computer, the FBO or owner could plug into the FAA's central computer and ascertain immediately if the license provided by the individual is valid, or whether it is forged, or what. That may still be a few years off.

For the time being, however, there is just no reason why the FAA cannot design some card that would assure that most renters can and would be idnetified, before they are given the aircraft. This would at least put some burden on the owner or the FBO, if for no other reason than that his failure to demand such I.D.—and to check it carefully—could well be some evidence that he was an accomplice in the drug run.

Over the past two years or so, we repeatedly asked the FAA to do this, but they told us that it was simply not possible to design a non-forgeable license and, further, that it was too expensive to do so. We question whether they are correct on either point.

Last March, we addressed a letter to the FAA in which we again raised the issue. A copy of this letter is attached as Exhibit 3–A. On April 27, when we testified on the identical House version of this Bill (H.R. 1580) before Mr. Mineta and his Committee, the issue of the forgeability of the FAA's certificate became a subject of much discussion. Just a few days later, we received the FAA's response to our March letter, A copy of that response, as well as our follow-up inquiry to the FAA on the subject, are attached as Exhibits 3–B and 3–C. This is a question that you might wish to put to the FAA witness when he or she testifies.

We are convinced that technology exists today to create a virtually non-forgeable license, and we think it could be done at minimal cost to the licensee, not the Government. Furthermore, if you exclude student pilots (to whom rentals ought not be made other than for their controlled training flights), we doubt that there would be any substantially greater number of non-forgeable pilot licenses issued by the FAA than there are drivers licenses issued by the District of Columbia. With a little good will and some good faith efforts on all sides, we believe this is one problem that can surely be solved: and we hope your Committee will use its good offices to move the FAA to do so.

THE INTERESTS OF THE AVIATION UNDERWRITERS

Now that we have shown why it would be so helpful to enact this Bill into law, the next question—which you have all probably been silently asking yourselves—is why we, as aviation underwriters, are so interested in its enactment. There is an easy answer to this, which is that, as insurers of aircraft that are often used on drug runs, we have an interest very similar to that of the U.S. Government in combatting these illegal activities. In other words, this is one occasion (among many, we believe) when we and the United States Government share a common objective, namely, to do as much as each of us can to stem the flow of drugs into this country by private aircraft.

It is no understatement to say that, among the four of us, we have handled and disposed of at least one hundred cases involving aircraft that crashed, or were ditched, or that were confiscated by Colombia or Mexico, or that simply disappeared—all while involved in what we believed were drug smuggling activities.

All too often, we just have no alternative but to pay off on the claim—even though there is nothing that we less wish to do than pay off those who are responsible for smuggling drugs into this country. But we do not have, and have no access to, the papers and records that the FAA has, showing that certain owners, or certain corporations, or certain principals of certain corporations have had several aircraft involved in suspected drug activities even though not convicted.

Nor can we ever ascertain whether the FBI or the DEA is investigating someone—even if he is our insured and pressing a claim on us for the same aircraft that is being investigated by the FBI. Nor are we ever privy even to whether an FBI or DEA investigation has been opened, much less to whether a grand jury has been convened. Nor do we ever learn about immunity deals that a prosecuting attorney may make with the pilot or the owner of an aircraft used in a drug run simply in order to get to his "higher-ups". So we pay, and in so doing, we in a small way subsidize, however reluctantly, the very people who are using aircraft to smuggle drugs into this country.

But we at least are trying to put a stop to this by urging that the FAA makes sure that individuals, once knowingly involved in drug smuggling, are not again—as they are today—easily able to obtain a pilot's license or to register an aircraft which we might be called upon to insure and which may well end up on still other drug runs.

If this legislation is enacted, you may also be certain that we will be able to be a very helpful source of information for the FAA and other federal agencies involved in drug interdiction. For if we learn about or have reason to believe that a particular pilot may have been involved in a drug run or that a particular owner may knowingly have allowed his aircraft to be used in a drug run, we would willingly share this information with the FAA and other federal agencies so as to assure that, if true, there will not be—as there seems to be today—two and three repeat performances by the same individuals. As one example of the kind of assistance we can provide, I am attaching (as Exhibits 4-A, 4-B, and 4-C) copies of correspondence we had with the FAA about the pilot of the aircraft that carried $200 million in cocaine (see Exhibit 1). We had a previous experience with this very same pilot on a claim for which we paid $340,000.

CONCLUSION

It is sad to have to say that no one will probably ever be able to stem the tide of drug smuggling by private aircraft. But what we can do is to make it increasingly difficult for the people involved in this illegal activity to succeed as often, as regularly, and as easily as they do today. It is sad when we must all recognize that we here in this room work long hours for weeks, months, and years for a pittance of what the drug smugglers make in one or two days. But what we can do is to make it more difficult for these people to make their fortunes as easily and as comfortably as they can today. These are the purposes that are served by S. 1146, and these are the reasons why we urge that it be promptly enacted. Thank you.

[Whereupon, at 11:05 a.m. the subcommittee was adjourned, to reconvene at the call of the Chair.]

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